

REMARKS

The Examiner has made final the lack of unity rejection because, in his opinion, the common elements of the claims do not impart patentability. Even if true, the Examiner's reasoning only provides grounds to reject all of the claims, NOT to impose a restriction requirement. The Examiner does not suggest that the claims do not share the special technical features. Indeed, the Examiner cannot make such a suggestion because all claims are dependent from, and therefore share the same elements as, independent Claim 1.

Moreover, the Examiner is wrong when he states that is not bound by the findings in the International Application. Please note the following, excerpted from the Applicant's Guide (emphasis added):

Article 2(x) 27(1)	138. An international application which complies with the unity of invention requirements laid down in Rule 13 must be accepted by all the designated and elected Offices, since Article 27(1) does not allow any national law (as defined in Article 2(x)) to require compliance with requirements relating to the contents of the international application different from or additional to those provided for in the PCT.
Rule 13	

The statement "**must be accepted by all the designated and elected Offices**" is a clear statement of a mandatory action and does not leave any room for deviation from this particular finding. Therefore, the restriction requirement is in error and should be withdrawn.

The Examiner rejects Claims 1-21 under 35 USC §112 as being indefinite. The Examiner specifically finds that the phrase "can react" in Claims 1 and 2; "can be substituted" and "can comprise" in Claim 5; "the possibility of" in Claim 6; and, "if appropriate" in Claim 9 makes it unclear as to if and when the events occur. The rejections to Claims 2-7 are moot with the cancellation of those claims. The amendment to Claim 9 corrects the clarity of that claim. The Applicant believes that the phrase "can react" in Claim 1 clearly defines a functional relationship, i.e., that the functional groups carried by the microparticles are reactive with functional groups in the reactive component. As such, this rejection should be withdrawn.

The Examiner made a number of prior art rejections as follows:

- i) Claims 1-2, 4, 9-10 and 17-21 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, Claim 4 is rejected under 35 U.S.C. § 103(a) as obvious over Roth.

ii) Claims 1-2, 4, 9-10 and 17-21 are rejected under 35 U.S.C. § 103(a) as obvious over Roth in view of Althaus.

iii) Claims 1-2, 4, 8-9 and 17-21 are rejected under 35 U.S.C. §102(e) as anticipated by or, in the alternative, Claims 4 and 10 are rejected under 35 U.S.C. § 103(a) as obvious over Kanda.

iv) Claims 1, 3-4, 8, 14-15 and 17-21 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, Claim 4 is rejected under 35 U.S.C. § 103(a) as obvious over Asanaka..

The amended set of claims now satisfies novelty over opposed prior art, because none of the opposed prior art documents disclose thermosetting composition with crosslinked microparticles bearing at least two specific functional groups.

This specificity of the crosslinked microparticles enables to occur multiple separate controlled crosslinking reaction in the thermosetting composition by which the crosslinked microparticles are grafted by at least two bonds to the thermoset matrix, thus, enhancing the mechanical thermal and chemical strength of the thermoset matrix.

More particularly, this matrix presents an improved hardness/flexibility performances compromise and an enhanced  $K_{10}$  factor.

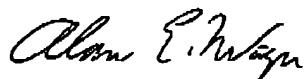
None of the opposed prior art documents does teach such a technical effect or advantage of such a delimitation of the characteristics of the specific thermosetting composition of the invention.

Consequently, patentability over prior art should be considered fulfilled.

A petition for a three month extension of time is hereby submitted. Please charge Deposit Account No. 23-2053 in the appropriate amount for such fee or petition.

The Examiner is invited to call the Applicant's attorney in the event that such communication would facilitate allowance of the application.

Respectfully submitted,



March 2, 2004

Alan E. Wagner  
Reg. No. 45,188

**ADDRESS:**

WHYTE HIRSCHBOECK DUDEK S.C.  
555 East Wisconsin Avenue, Suite 1900  
Milwaukee, WI 53202  
414-273-2100